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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CAPITAL ONE, NATIONAL
ASSOCIATION, a national banking
association.

Case No. 2:17-cv-02493-RFB-VCF

Plaintiff.

vs.

KK REAL ESTATE INVESTMENT FUND, LLC, a Nevada limited liability company; and TURNBERRY TOWERS EAST UNIT OWNERS ASSOCIATION, a Nevada non-profit corporation;

**MOTION TO EXTEND DEADLINE
FOR SERVICE OF PROCESS**

Defendants.

Pursuant to Fed. R. Civ. P. 4(m), plaintiff Capital One, National Association (“Capital One”) moves to extend the deadline to effect service of process in this case from December 26, 2017 to January 25, 2018.

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff Capital One filed this action against defendants KK Real Estate Investment Fund, LLC (“KKRE”) and Turnberry Towers East Unit Owners Association (“Turnberry”) on September 26, 2017. Pursuant to Fed. R. Civ. P. 4(m)

1 and 6(a)(1)(C), the current deadline for Capital One to effect service of process on
2 KKRE and Turnberry is December 26, 2017. Good cause exists to extend this
3 deadline by thirty days to January 25, 2017.

4 Fed. R. Civ. P. 4(m) generally requires a plaintiff to serve a defendant within
5 90 days after filing a complaint. However, “if the plaintiff shows good cause for the
6 failure, the court must extend the time for service for an appropriate period.” Fed. R.
7 Civ. P. 4(m). Rule 4(m) “requires a district court to grant an extension of time if good
8 cause is shown and permits the district court to grant such an extension even absent
9 good cause.” Mann v. Am. Airlines, 324 F.3d 1088, 1090 n.2 (9th Cir. 2003) (citing
10 Henderson v. United States, 517 U.S. 654, 662 (1996)). When Rule 4(m) was
11 amended in 2015 to shorten the presumptive time for service from 120 to 90 days, the
12 advisory committee noted that “[s]hortening the presumptive time for service will
13 increase the frequency of occasions to extend the time.” Fed. R. Civ. P. 4, Notes of
14 Advisory Committee on 2015 Amendment. “More time may be needed, for example,
15 when a request to waive service fails, a defendant is difficult to serve, or a marshal is
16 to make service in an in forma pauperis action.” Id.

17 In this case, Capital One hired a process server to serve KKRE’s registered
18 agent, an individual named Cheung K Wok Chan. The process server attempted to
19 serve the registered agent on December 22, 2017 at 11:33 a.m. at the registered
20 agent’s address on file with the Nevada Secretary of State. Ex. 1. The process server
21 observed that the property appeared occupied, but the blinds were closed and no one
22 answered the door. Id. The process server attempted to serve the registered agent
23 again on December 26, 2017 at 11:57 a.m. A person in a neighboring suite confirmed
24 that the property was occupied, but again, there was no one present at the property.
25 Id.

26 Capital One also hired a process server to serve Turnberry’s registered agent,
27 Pinnacle Community Association Management. The process server attempted to
28 serve the registered agent on December 22, 2017 at 11:31 a.m. at the registered

1 agent's address on file with the Nevada Secretary of State. Ex. 2. The process server
2 reported that the office was closed and there were no posted hours. Id. The process
3 server attempted to serve the registered agent again on December 26, 2017 at 10:24
4 a.m. Id. The office was again closed, and a sign indicated the office would remain
5 closed until December 27, 2017. Id.

6 To summarize, Capital One has diligently attempted to serve the registered
7 agents for KKRE and Turnberry on two separate occasions. There is good cause for a
8 30-day extension based on Capital One's prior efforts to serve defendants and based
9 on the likelihood that Capital One will be able to serve them in the near future. The
10 office for Turnberry's registered agent will apparently reopen tomorrow, December
11 27. Further, while no one was present at the office of KKRE's registered agent on
12 December 22 and 26, the office appears to be occupied. Because there is good cause to
13 extend the service deadline, an extension is mandatory. In the alternative, the Court
14 can and should exercise its discretion to grant the requested extension even in the
15 absence of good cause.

16 Dated: December 26, 2017.

17 BALLARD SPAHR LLP

18 By: /s/ Matthew D. Lamb
19 Abran E. Vigil
20 Nevada Bar No. 7548
21 100 North City Parkway, Suite 1750
22 Las Vegas, Nevada 89106

23 Matthew D. Lamb
24 Nevada Bar No. 12991
25 1909 K Street NW, 12th Floor
26 Washington, D.C. 20006

27 *Attorneys for Plaintiff*

28 IT IS SO ORDERED:



RICHARD F. BOULWARE, II
United States District Judge

DATED this 22nd day of January, 2018.

CERTIFICATE OF SERVICE

I certify that on December 26, 2017, I served the foregoing **Motion to Extend Deadline for Service of Process** to the following parties via United States Mail:

Cheung K Wok Chan
2625 S Rainbow Blvd, Suite C-106
Las Vegas, Nevada 89146
Registered Agent – KK Real Estate Investment Fund LLC

Pinnacle Community Association Management
8311 W Sunset Rd Ste 110
Las Vegas, Nevada 89113
Registered Agent – Turnberry Towers East Unit Owners Association

/s/Elizabeth Blaschko
An employee of Ballard Spahr LLP

BALLARD SPAHR LLP
100 NORTH CITY PARKWAY, SUITE 1750
Atlanta, Georgia 30367-3211 • 404.587.1000 • Fax 404.587.1001

Exhibit 1

Exhibit 1

From: Las Vegas Process [<mailto:LVProcess@nationwideasap.com>]
Sent: Tuesday, December 26, 2017 12:02 PM
To: Blaschko, Elizabeth (LV)
Subject: 00156558 - Guastella: Status RE KK Real Estate Investment Fund, LLC c/o Cheung K.

Please inform the attorney that the below location has not been served either server will attempt again 12/27, I

Nationwide Legal Nevada, LLC
Number: NV109947
Your Reference Number: 00156558 - Guastella

Servee: KK Real Estate Investment Fund, LLC c/o Cheung K.
Wok Chan, Registered Agent

Case Info: Capital One v KK Real Estate Investment Fund, LLC

Date: 12/22/2017
Time: 11:33 AM
Server: Brittany Mae Holman reg: R-099789, Nevada
Address Attempted: 2625 S. Rainbow Boulevard, C-106, Las Vegas, NV 89146
Blinds Closed, No Answer, No Movement, Property is occupied

Date: 12/26/2017
Time: 11:57 AM
Server: Brittany Mae Holman reg: R-099789, Nevada
Address Attempted: 2625 S. Rainbow Boulevard, C-106, Las Vegas, NV 89146
Blinds Closed, Fully Furnished, Neighbor confirms property is occupied, No Changes, No Lights, No Movement, Property is occupied

Thank you,

Jennifer Craig
R-081221
Las Vegas Process
NATIONWIDE LEGAL,LLC
NATIONWIDE
LEGAL
LLC

626 South 7th Street
Las Vegas | NV | 89101
T 702.385.5444 | F 702.385.1444
LVProcess@nationwideasap.com

Did you know Nationwide Legal has a full service Medical Records Retrieval Department?
We Can Issue your Subpoena, Notice Your Opposing Counsel and act as your Deposition Officer.
Please call 1(877)-326-2679 or email dsolutions@nationwideasap.com for further information.

Exhibit 2

Exhibit 2

From: Las Vegas Process [<mailto:LVProcess@nationwideasap.com>]
Sent: Tuesday, December 26, 2017 11:22 AM
To: Blaschko, Elizabeth (LV)
Subject: 00156558 - Guastella: Status RE Turnberry Towers East Unit-Owners' Association c/o Pinnacle Community Association Management

Please see attempts made below

Servee: Turnberry Towers East Unit-Owners' Association c/o
Pinnacle Community Association Management

Case Info: Capital One v KK Real Estate Investment Fund, LLC

Date: 12/22/2017

Time: 11:31 AM

Server: Tanner Trewet reg: R-075655, Clark

Address Attempted: 8311 W. Sunset Road, 110, Las Vegas, NV 89113

Office is closed. No posted hours.

Date: 12/26/2017

Time: 10:24 AM

Server: Tanner Trewet reg: R-075655, Clark

Address Attempted: 8311 W. Sunset Road, 110, Las Vegas, NV 89113

Office is closed. Per sign office is closed until Wednesday 12/27.

Thank you,

Jennifer Craig

R-081221

Las Vegas Process

NATIONWIDE LEGAL,LLC



626 South 7th Street

Las Vegas | NV | 89101

T 702.385.5444 | F 702.385.1444

LVProcess@nationwideasap.com

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